

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

Kent Garvey, on behalf of himself and all
others similarly situated,

Plaintiff(s),

James Arkoosh, Samuel Belzberg, Peter Klein
and Diomed Holdings, Inc.,

Defendants.

Master File No. 1:04-cv-10438-RGS

Motion to Reconsider the Motion to Appoint
Lead Plaintiff and Approve Lead Plaintiffs'
Selection of Counsel

CLASS ACTION

FILED
Date: 7/19/04
By: [Signature]

Plaintiff, Kent Garvey, by and through undersigned counsel, hereby moves the Court to reconsider a portion of its July 12, 2004 determination denying Plaintiff's Motion to Consolidate Related Actions, Appoint Lead Plaintiff and for Approval of Lead Plaintiffs' Selection of Counsel. Specifically, the Court's July 12, 2004 Order denied Plaintiffs' Motion to Consolidate without addressing Plaintiffs' application for appointment as lead plaintiff and for approval of lead plaintiffs' selection of lead counsel. Plaintiffs request the Court reconsider that portion of its July 12, 2004 Order related to appointment of lead plaintiffs and approval of lead counsel.

The motion to consolidate cases, appoint lead Plaintiffs and approve lead Plaintiffs' selection of counsel were all filed together in a single motion with this court on May 18, 2004 along with (1) the Declaration of Laurence M. Rosen dated May 17, 2004; and (2) Memorandum of Law in Support of a Motion to Consolidate Related Actions, Appoint Lead Plaintiff and for Approval of Lead Plaintiffs' Selection of Counsel dated May 17, 2004.

No additional cases requiring consolidation were ever filed and hence the original motion requesting consolidation of cases was moot. The Court denied the motion in its entirety, stating that, "As plaintiff admits there are no related actions currently pending in this district." However, the Court did not address Plaintiffs' other two requests, namely to appoint lead Plaintiffs and approve Plaintiffs' selection of lead counsel.

Plaintiffs, through their counsel, pursuant to Section 21 D of the Securities and Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(3)(B), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), Kent Garvey, Albert Overhauser, James T. Marsh, Roger E. Buck, and Thomas Loveless ("Movants") hereby apply to this Court to issue an order:

- (a) Appointing Movants to serve as Lead Plaintiffs in this action; and
- (b) Approving Movants' selection of The Rosen Law Firm P.A, 350 Fifth Avenue, Suite 5508, New York, New York 10118, as Lead Counsel and the Law Office of Scott P. Lopez, 24 School Street, 8th Floor, Boston, Massachusetts 02108 as Liaison Counsel for the litigation.

A proposed Order Appointing Lead Plaintiffs and Lead Counsel is being submitted along with this Motion for Reconsideration.

Counsel for defendants Diomed Holdings, Inc. and Peter Klein have stated that they do not take any position with respect to the appointment of lead plaintiffs and approval of selection of lead counsel.

If the Court approves of the Plaintiffs' selection of lead counsel, it is further requested that the Court approve the proposed stipulated scheduling order that has been agreed to by Plaintiffs' counsel and counsel for Diomed Holdings, Inc. and Peter Klein.

The stipulated scheduling order is submitted herewith and will ensure that the Court will not have to adjudicate responses to the complaint, including motions to dismiss, in piecemeal fashion.

In support of this Motion for Reconsideration, Movants respectfully ask the court to refer to: (1) the Declaration of Laurence M. Rosen dated May 17, 2004; and (2) Memorandum of Law dated May 17, 2004 which were both filed on May 18, 2004 with this Court as part of the original Notice of Motion to Consolidate Related Actions, Appoint Lead Plaintiff and for Approval of Lead Plaintiffs' Selection of Counsel for any required background information.

DATED: July 19, 2004

LAW OFFICE OF SCOTT P. LOPEZ



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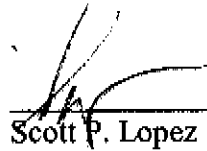
Proposed Liaison Counsel for Plaintiffs

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Proposed Lead Counsel for Plaintiffs

LOCAL RULE 7.1 CERTIFICATION

I hereby certify, upon information and belief, that prior to filing the within motion Laurence Rosen conferred with defendant's counsel Charles Wm. McIntyre, by telephone on July 19, 2004 and attempted in good faith to resolve or narrow the issues contained herein.

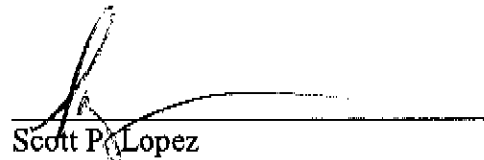


Scott P. Lopez

CERTIFICATE OF SERVICE

I, Scott P. Lopez, hereby certify that on this 19th day of July, 2004, I caused to be served, by first-class mail, postage prepaid, a copy of the foregoing Motion to Reconsider the Motion to Appoint Lead Plaintiff and Approve Lead Plaintiffs' Selection of Counsel to the following:

1. James Foster, Esq.
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